

Remarks

The applicants respectfully traverse the restriction requirement with respect to claims 121, 123, 126-129 and claims 130-134. Pursuant to MPEP §803, a restriction requirement is proper only if: (1) the inventions are independent or distinct as claimed, and (2) there would be a serious burden on the examiner if the restriction is not required. Without addressing the issue of whether the claimed system for in-vehicle sound processing are patentably distinct from each other, the applicant respectfully submits that a search and examination of the complete set of claims would not impose a serious burden on the examiner, as evidenced by the examiner's development of the previous two Office actions in case. The applicants submit that examination of a set of claims directed to the system for beam forming audio to select a speaker over either another speaker or ambient noise would not place a serious burden upon the examiner if restriction is not required.

M.P.E.P. 802.01 states that the distinctness required for restriction means that the subjects "ARE PATENTABLE (novel and unobvious) OVER EACH OTHER" (emphasis with capital letters in original). (See also M.P.E.P. 808.02, which states that where "related inventions are not patentably distinct as claimed, restriction ... is never proper." The Patent Office has also stated that "it is imperative the requirement should never be made where related inventions as claimed are not distinct." M.P.E.P. 806.)

These positions are necessary to entry of the restriction requirement by the Office and may be relied upon by the applicants during examination of this and continuing applications, unless the restriction requirement is withdrawn. If the examiner is not taking these positions, then it is submitted that the restriction requirement should be withdrawn upon reconsideration.

An election is required in this response. Accordingly, the applicant elects, with traverse, Claims 121, 123 and 126-129, and requests that the remaining claims 130-134, be withdrawn without prejudice.

New claims 135-137, dependent from claim 121, are added by way of this response. The new claims are directed to output signal types and are supported in the

specification at least at page 3, lines 27-29 and page 4, lines 8-11. No new matter has been added. For the same reasons articulated in the October 18, 2004 amendment, the new claims 135-137 are allowable as depending from allowable claim 121. An action on the merits of all the claims and a Notice of Allowance thereof are respectfully requested.

Applicants believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 13-2855, under Order No. 30521/452A from which the undersigned is authorized to draw.

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Respectfully submitted,

By

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